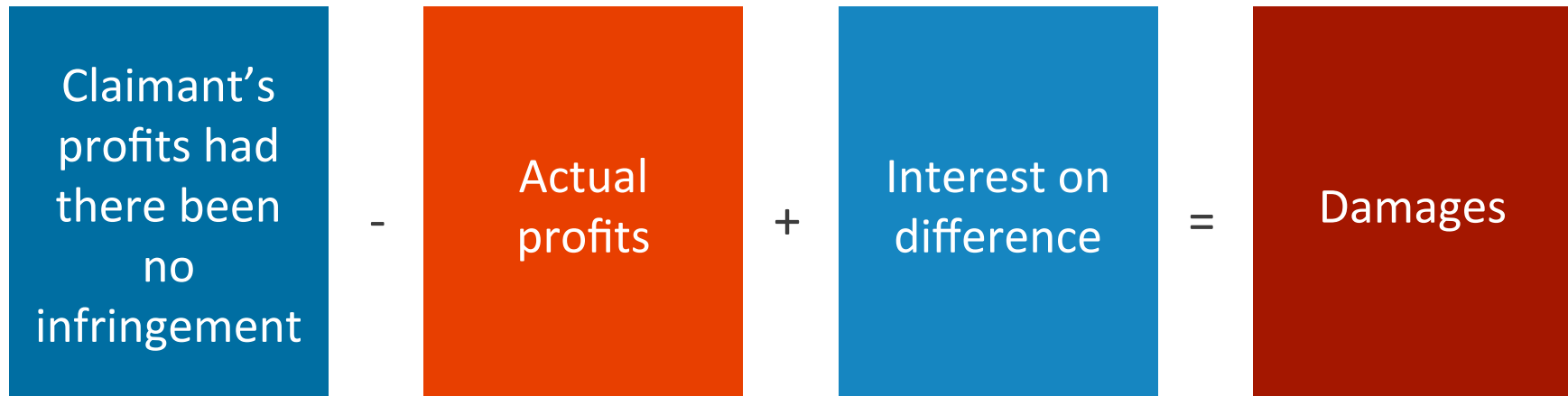


# COMPENSATORY DAMAGES

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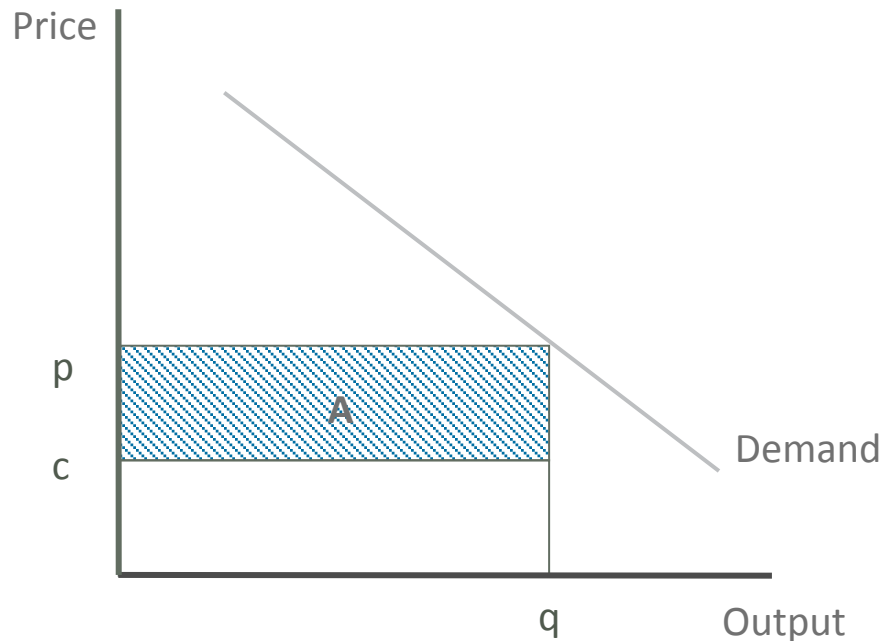


↑  
“Counterfactual” or “But for” profits are unobserved but need to be quantified

↑      ↑  
Relatively straightforward

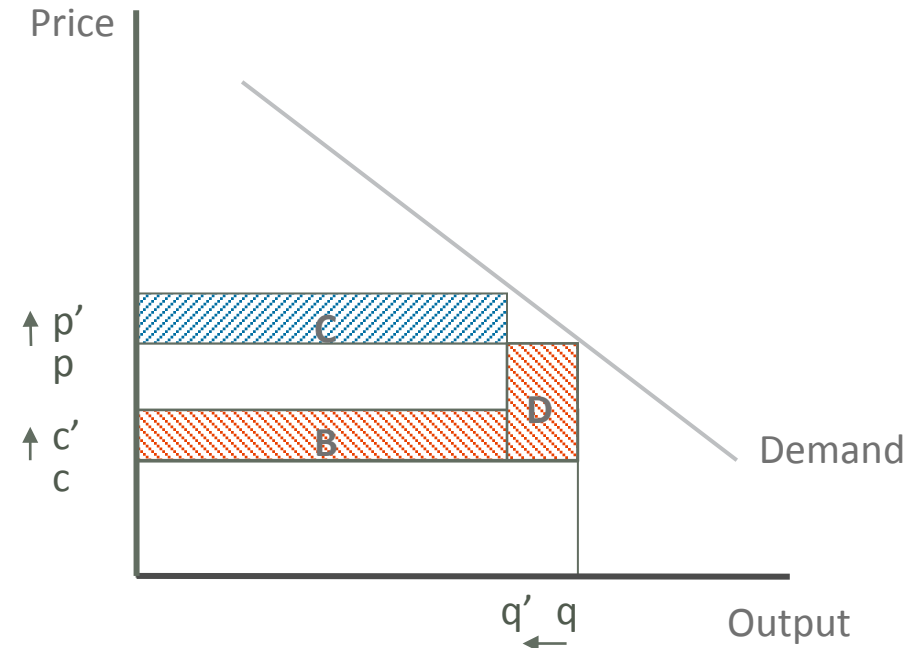
# POTENTIAL IMPACT OF A CARTEL

## Customer's counterfactual profits



A = counterfactual profits

## Customer's actual profits



B = Impact of cartelists' price increase

C = Pass-on of increased prices

D = Loss of sales if price increase passed on

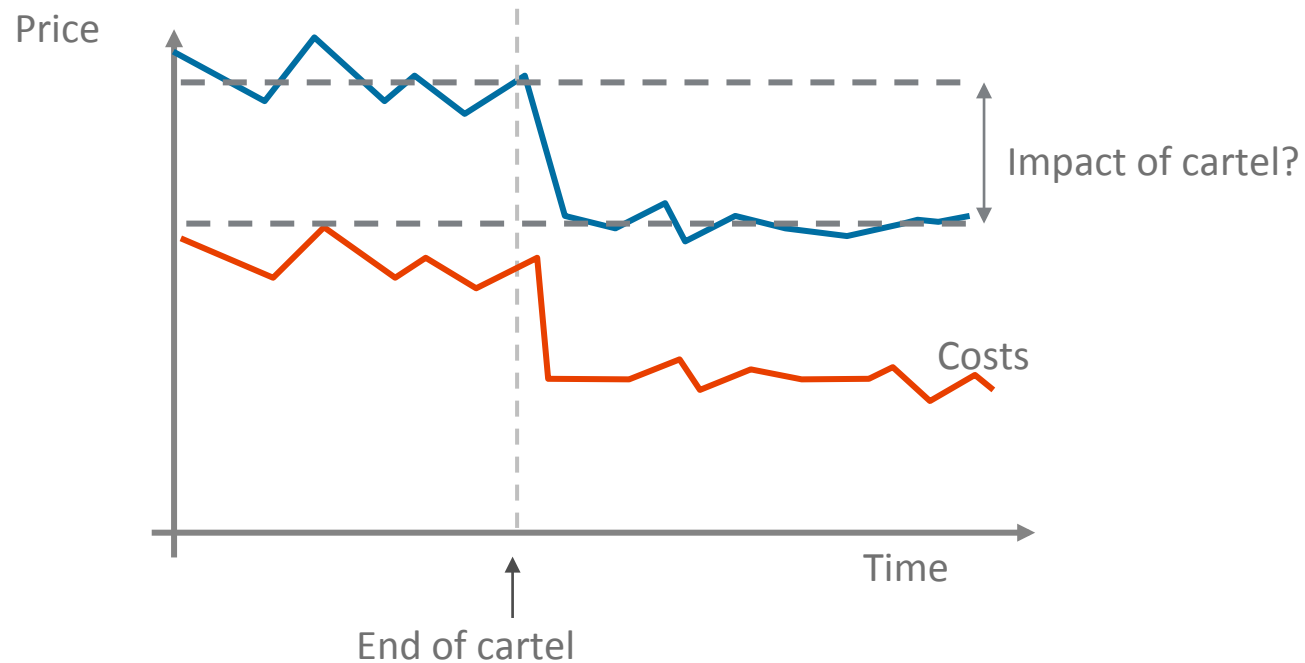
$$\text{Customers' lost profits} = B - C + D$$

# ESTIMATING COUNTERFACTUAL PRICES OR OUTPUT

Approaches described in the European Commission’s “practical guide”: *Quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the functioning of the European Union*.

<b>Before-and-after method</b>	Use the situation before or after the infringement.
<b>Yardstick approach</b>	Use a group of similar products, or the same products in different geographies.
<b>Cost-based approach</b>	Estimate prices by taking the dominant firm’s costs and adding a margin for a “reasonable return” under competitive conditions.
<b>Simulation analysis</b>	Developing a model of the market and simulate the impact of the infringement.

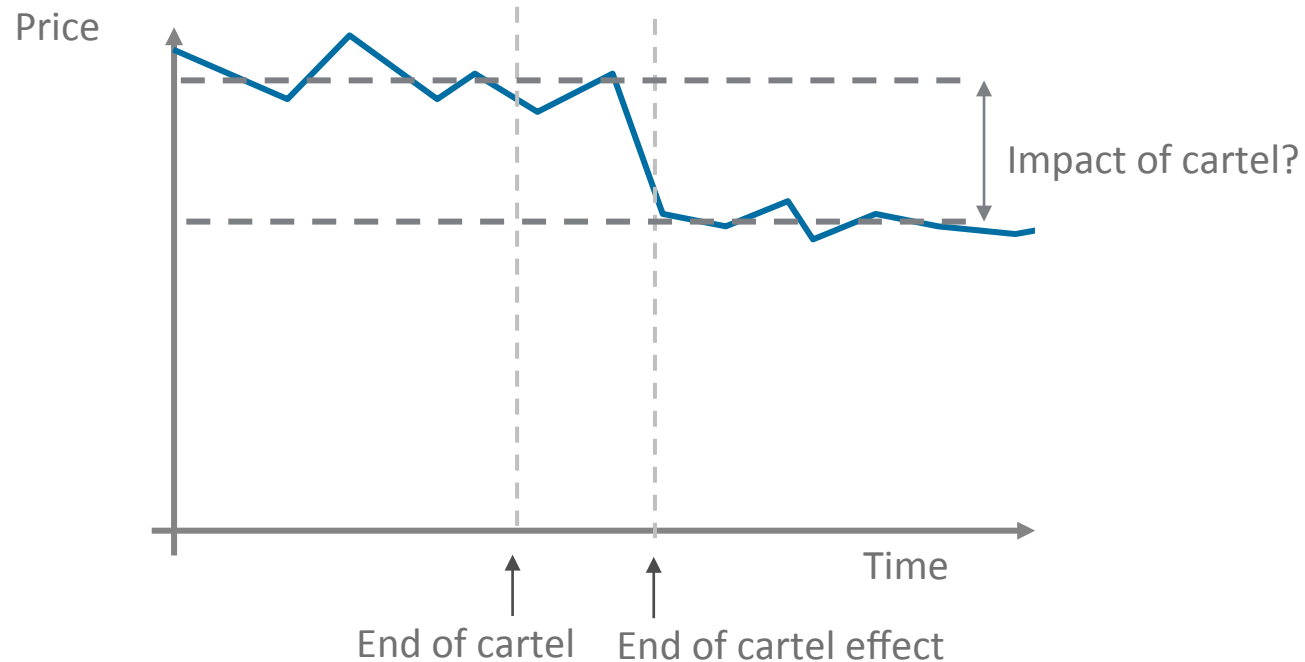
# BEFORE-AND-AFTER APPROACH



Difference between prices (i) before or after the cartel and (ii) during the cartel, might be used to estimate the impact of the cartel

- But prices could be affected by other factors (e.g. change in costs)
- May need to control for these factors

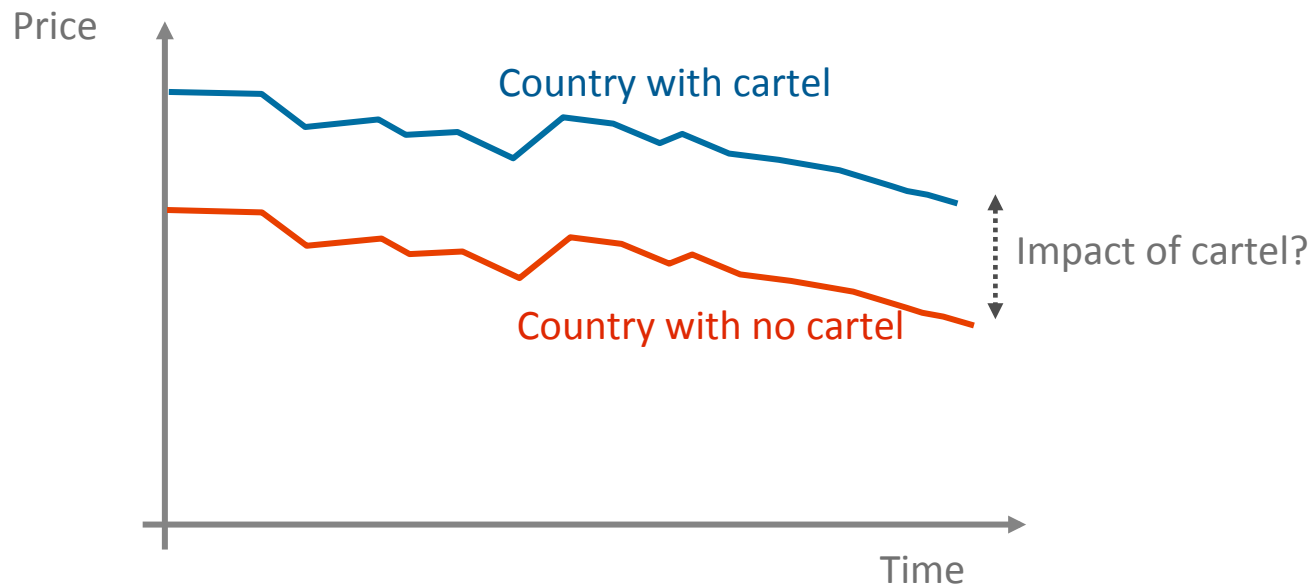
# BEFORE-AND-AFTER APPROACH



There may be a delay before prices return to competitive levels

- Damages may extend beyond the end of the infringement

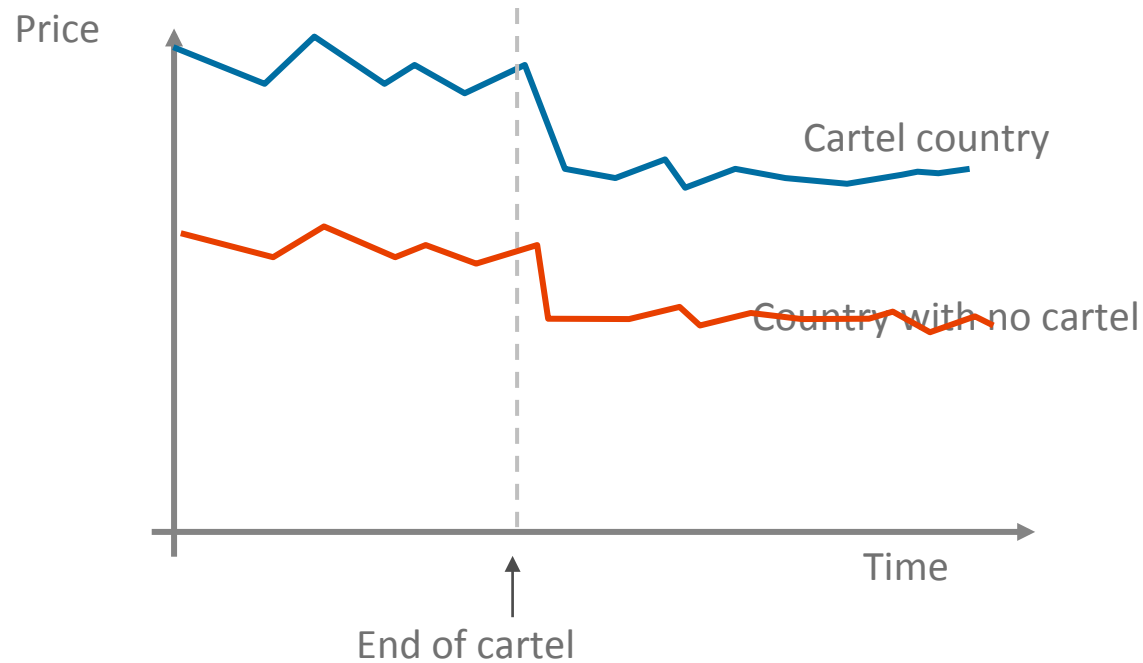
# YARDSTICK APPROACH



Difference between prices in a country/product where cartel occurs and prices in a similar market with no cartel might be used to estimate the impact of the cartel

- But markets have to be sufficiently similar (apart from absence of cartel), e.g.
  - Neighbouring countries?
  - Different versions of the same product
- May still need to control for differences between the markets

# DIFFERENCES-IN-DIFFERENCES APPROACH



Before-and-after approach shows evidence of cartel effect

- But similar effect in country with no cartel

Yardstick approach shows evidence of cartel effect

- But similar difference is seen after cartel ends

Differences-in-differences approach looks whether the difference (between before and after) is different between the two countries

# COST-BASED APPROACH

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Counterfactual Price

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“Reasonable margin”

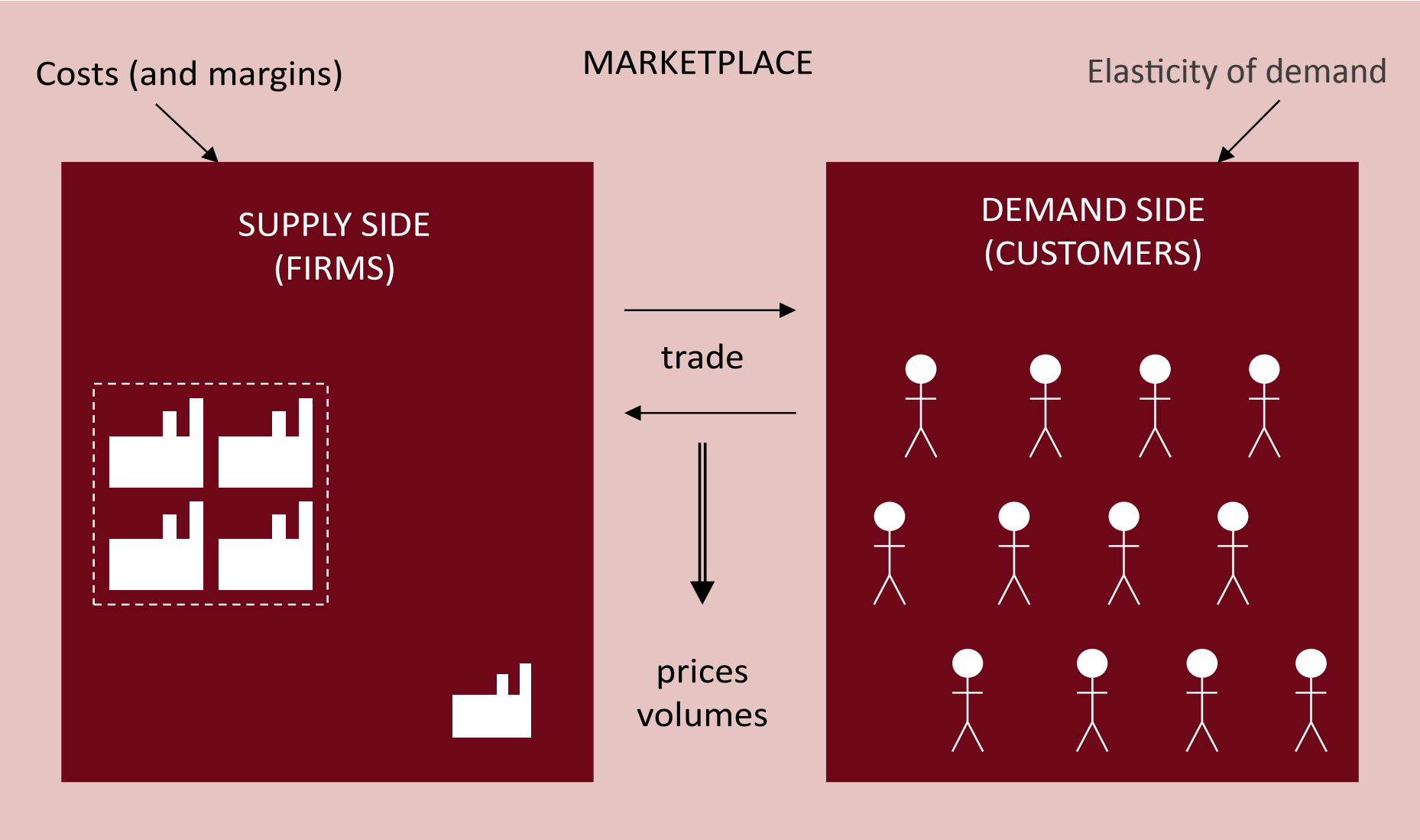
Can be estimated by looking at similar companies or profits of the same company in markets where there is no infringement

Defendant’s actual costs

Data should be available from the firm’s accounts



# SIMULATION APPROACH



Thank you



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